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DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-840]

Certain Frozen Warmwater Shrimp from India: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: In response to a request by Premier Marine Products Private Limited (PPL), a producer/exporter of certain frozen warmwater shrimp (shrimp) from India, and pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216 and 351.221(c)(3)(ii), the Department of Commerce (the Department) is initiating a changed circumstances review (CCR) of the antidumping duty (AD) order on shrimp from India with regards to PPL. Based on the information received, we preliminarily determine that PPL is the successor-in-interest to Premier Marine Products (PMP) for purposes of determining AD liability. Interested parties are invited to comment on these preliminary results.

DATES: Effective Date: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Blaine Wiltse or Stephen Banea, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6345 or (202) 482-0656, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2005, the Department published in the Federal Register the AD order on shrimp from India.¹ Effective April 8, 2013, PMP, a producer/exporter of Indian shrimp covered by this order, converted from a partnership company to a private limited company, under the definition in Indian law and, as part of this conversion, it changed its name to PPL.² On August 22, 2014, PPL requested³ that the Department conduct an expedited CCR to determine that it is the successor-in-interest to PMP, for the purpose of being assigned PMP's cash deposit rate, as a part of the Liberty Group of companies.⁴ We received no comments opposing PPL's request.

Scope of the Order

The scope of this order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off, deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

¹ See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India, 70 FR 5147 (Feb. 1, 2005) (Shrimp Order).

² See Letter from Premier Marine Private Limited, dated August 22, 2014 (CCR Request).

³ Id.

⁴ PMP received a 2.49 percent dumping margin as part of the Liberty Group in the 2012-2013 administrative review of the AD order on shrimp from India. See Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 51309 (Aug. 28, 2014) (Shrimp Review).

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this order. In addition, food preparations, which are not “prepared meals,” that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

Excluded from the scope are: (1) breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the Pandalidae family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); (7) certain battered shrimp. Battered shrimp is a shrimp-based product: (1) that is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a “dusting” layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh

thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and ten percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to IQF freezing immediately after application of the dusting layer. When dusted in accordance with the definition of dusting above, the battered shrimp product is also coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this order are currently classified under the following HTSUS subheadings: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive.

Initiation and Preliminary Results of Changed Circumstances Review

Pursuant to section 751(b)(1)(A) of the Act and 19 CFR 351.216(d), the Department will conduct a CCR upon receipt of a request from an interested party for a review of an AD order which shows changed circumstances sufficient to warrant a review of the order. The information submitted by PPL supporting its claim that it is the successor-in-interest to PMP demonstrates changed circumstances sufficient to warrant such a review.⁵

In accordance with the above-referenced regulation, the Department is initiating a CCR to determine whether PPL is the successor-in-interest to PMP. In determining whether one company is the successor-in-interest to another, the Department examines a number of factors including, but not limited to, changes in management, production facilities, supplier

⁵ See 19 CFR 351.216(d); see also Notice and Preliminary Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod From Mexico, 75 FR 67685 (Nov. 3, 2010).

relationships, and customer base.⁶ While no single factor or combination of these factors will necessarily provide a dispositive indication of a successor-in-interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor.⁷ Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the prior company, the Department will assign the new company the cash deposit rate of its predecessor.⁸

In its August 22, 2014, submission, PPL provided information to demonstrate that it is the successor-in-interest to PMP. PPL states that the company's management, production facilities and customer/supplier relationships have not changed as a result of its conversion to a private limited company. To support its claims, PPL submitted the following documents: 1) PMP's partnership deed from 1986; 2) PPL's new partnership deed from 2013; 3) the particulars of PPL's capital shares and percent of shareholdings for each partner; 4) the certificate of incorporation; 5) the Memorandum of Association and Articles of Association of PPL showing details of the partnership; 6) PMP's and PPL's certificates issued by the Export Inspection Council of India showing the same address for the production facility; 7) a list of the suppliers of PMP before, and PPL after, the conversion to a private limited company; 8) a list of the customers of PMP before, and PPL after, the conversion; and, 9) a list of the employees of PMP before, and PPL after, the conversion.

⁶ See Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp From Thailand, 75 FR 61702, 61703 (Oct. 6, 2010) (Shrimp from Thailand) (unchanged in Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp From Thailand, 75 FR 74684 (Dec. 1, 2010); Industrial Phosphoric Acid From Israel; Final Results of Antidumping Duty Changed Circumstances Review, 59 FR 6944 (Feb. 14, 1994).

⁷ See Shrimp from Thailand, 75 FR at 61703.

⁸ Id.; see also Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber From Japan, 67 FR 58 (Jan. 2, 2002); and Ball Bearings and Parts Thereof from France: Final Results of Changed-Circumstances Review, 75 FR 34688 (June 10, 2010).

Based on the evidence on the record, we preliminarily find that PPL is the successor-in-interest to PMP. We find that, while PPL expanded to seven partners from two after its conversion to a private limited company, the original two partners retained a majority stake in PPL and no managers or other employees changed as a result of the conversion.⁹ As a result, we find that PPL operates as the same business entity as PMP. Moreover, PPL: 1) retained the same production facility as PMP;¹⁰ 2) continued to purchase raw shrimp from a majority of the same suppliers as PMP;¹¹ and 3) continued to supply the same U.S. customers.¹² Therefore, we also find that the production facility, supplier relationships, and customers have not changed as a result of PMP's conversion to PPL. Thus, we preliminarily find that PPL should receive the same AD deposit rate (i.e., 2.49 percent) with respect to the subject merchandise as PMP, its predecessor company.

When it concludes that expedited action is warranted, the Department may publish the notice of initiation and preliminary results for a CCR concurrently.¹³ We have determined that expedition of this CCR is warranted because we have the information necessary to make a preliminary finding already on the record.¹⁴ Should our final results remain the same as these preliminary results, effective the date of publication of the final results, we will instruct U.S. Customs and Border Protection to suspend entries of subject merchandise produced or exported

⁹ See CCR Request, at 7 and 10.

¹⁰ Id.

¹¹ Id. at 9.

¹² Id.

¹³ See 19 CFR 351.221(c)(3)(ii); see also Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Canned Pineapple Fruit from Thailand, 69 FR 30878 (June 1, 2004).

¹⁴ See Ball Bearings and Parts Thereof from Japan: Initiation and Preliminary Results of Changed Circumstances Review, 71 FR 14679 (Mar. 23, 2006).

by PPL at PMP's cash deposit rate (i.e., 2.49 percent), effective on the publication date of our final results.

Public Comment

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 14 days of publication of this notice.¹⁵ Parties will be notified of the time and date of any hearing, if requested. Interested parties may submit case briefs and/or written comments not later than 14 days after the publication of this notice. Rebuttal briefs, and rebuttals to written comments, which must be limited to issues raised in such briefs or comments, may be filed not later than 21 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this changed circumstance review are requested to submit with each argument: 1) a statement of the issue; and 2) a brief summary of the argument; and (3) a table of authorities. Interested parties who wish to comment on the preliminary results must file briefs electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>. An electronically-filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time on the date the document is due.

Consistent with 19 CFR 351.216(e), we intend to issue the final results of this changed circumstance review no later than 270 days after the date on which this review was initiated, or within 45 days of publication of these preliminary results if all parties agree to our preliminary finding.

¹⁵ See 19 CFR 351.303 for general filing requirements.

We are issuing and publishing this finding and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221(c)(3)(ii).

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

October 6, 2014
(Date)

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